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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,124

06/16/2006

Bernd Szyszka

P29662

1797

7055 7590 11/18/2008
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EXAMINER

MCDONALD, RODNEY GLENN

ART UNIT

PAPER NUMBER

1795

NOTIFICATION DATE

DELIVERY MODE

11/18/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary	Application No. 10/583,124	Applicant(s) SZYSZKA ET AL.	
	Examiner Rodney G. McDonald	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-28-07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5, 7 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampkin (U.S. PG PUB 2002/0092766 A1) in view of Narizuka et al. (U.S. Pat. 5,320,729).

Regarding claim 1, Lampkin teaches a magnetron coating system including a first coating source (i.e. 14A). Lampkin teaches an auxiliary substrate (i.e. 12) arranged between the first coating and the area that is provided for receiving the substrate (i.e. 19) to be coated. A magnetron (i.e. 28) whereby the auxiliary substrate (i.e. 12) forms a cathode for this magnetron (i.e. 28). (Paragraphs 0047-0053; 0060)

Regarding claim 2, Lampkin teaches that the auxiliary substrate is embodied cylindrically and the magnetron is a rod cathode magnetron. (Paragraph 0048)

Regarding claim 3, Lampkin teaches that the first coating source can be a planar magnetron. (Paragraph 0048)

Regarding claim 4, Lampkin teaches utilizing shields for coating sources. (Paragraph 0078)

Regarding claim 7, Lampkin teaches a method for depositing layers. A layer is deposited on an auxiliary substrate (i.e. 12) by means of a first coating source (i.e. 14A) and this auxiliary substrate is used as a cathode for coating a substrate (i.e. 12) by means of a magnetron (i.e. 28). (Paragraphs 0047-0053; 0060)

Regarding 10, Lampkin teaches that the deposited layer is a metal layer. (Paragraph 0078)

Regarding claim 11, Lampkin teaches that the metal layer comprising mainly an element that has a higher mass number than the average mass number of the material of the auxiliary substrate. (Paragraph 0078)

Regarding claim 12, Lampkin teaches the operation of the first magnetron takes place with inert gas and the operation of the second magnetron takes place with inert and/or reactive gas. (Paragraph 0078)

Regarding claim 13, Lampkin teaches the inert gas contains argon and/or oxygen. (Paragraph 0078)

The differences between Lampkin and the present claims is that means for determining the area density of the auxiliary substrate is not discussed (claim 1), the

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means for determining the area density contains a device for determining the x-ray fluorescence is not discussed (claim 5), the area density of the auxiliary substrate being determined is not discussed (Claim 7), the area density being determined on the auxiliary target after this has been used as a cathode for coating a substrate by means of a second magnetron is not discussed (Claim 14) and the area density of the auxiliary target being determined by means of x-ray fluorescence is not discussed (Claim 15).

Regarding claims 1, 5, 7, 14, 15, Narizuka et al. teach utilizing X-Ray fluorescence to determine the make up of a target. (Column 2 lines 61-62)

The motivation for utilizing the features of Narizuka et al. because it allows for determining the make up of a target. (Column 2 lines 61-62)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Lampkin by utilizing the features Narizuka et al. because it allows for determining the make up of a target.

Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampkin in view of Narizuka as applied to claims 1-5, 7 and 10-15 above, and further in view of Belkind et al. (U.S. Pat.5,338,422).

The difference not yet discussed is the magnetron having several cathodes, each of which contains an auxiliary substrate is not discussed (Claim 6) and that a layer depositing on the substrate which contains titanium dioxide is not discussed (Claim 18).

Regarding claim 6, Belkind et al. teach utilizing several magnetrons with several cathodes. (See Fig. 1)

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Regarding claim 18, Belkind et al. teach forming titanium dioxide. (Column 4 lines 50-53)

The motivation for utilizing the features of Belkind et al. is that it allows for depositing on large substrates. (Column 2 lines 10-12)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the features of Belkind et al. because it allows for depositing on large substrates.

Claims 8, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampkin in view of Narizuka as applied to claims 1-5, 7 and 10-15 above, and further in view of Lampkin (U.S. Pat. 5,405,517).

The differences not yet discussed is the deposited layer thickness on the auxiliary substrate being less than 100 nm is not discussed (Claim 8), the deposited layer thickness on the auxiliary substrate being less than 10 nm is not discussed (Claim 9) and the magnetron being operated with DC voltage is not discussed (Claim 16).

Regarding claims 8, 9, Lampkin '517 teach the surface of the auxiliary substrate should be coated at a thickness greater than that removed in a single rotation. (Column 5 lines 54-56)

Regarding claim 16, Lampkin '517 teach that the magnetron is can be operated with a DC voltage. (Column 2 lines 13-16)

The motivation for utilizing the features of Lampkin '517 is that it allows for forming compound films on a substrate. (Column 3 lines 9-12)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the features of Lampkin '517 because it allows for forming compound films on a substrate.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampkin in view of Narizuka as applied to claims 1-5, 7 and 10-15 above, and further in view of Lehan et al. (U.S. Pat. 5,814,195).

The difference not yet discussed is the magnetron operates as a magnetron having several cathodes with a frequency of approximately 10 kHz to approximately 100 kHz. (Claim 17)

Regarding claim 17, Lehan et al. teach utilizing several cathodes providing with a frequency of approximately 10 kHz to 100 kHz. (Column 2 lines 21-27)

The motivation for utilizing the features of Lehan et al. is that it allows for preventing extinguishing of the plasma. (Column 2 lines 39-41)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized Lehan et al. because it allows for preventing extinguishing of the plasma.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M-Th with every Friday off..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney G. McDonald/
Primary Examiner, Art Unit 1795

Rodney G. McDonald
Primary Examiner
Art Unit 1795

RM
November 10, 2008